

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MELISSA SNELGROVE,)	
	)	CIVIL ACTION FILE NO.:
Plaintiff,)	
)	
v.)	
	)	[Removed from
	)	The State Court of Cobb
	)	County, Civil Action File No.
	)	23-A-2998]
WAL-MART STORES EAST, L.P., and)	
RANDY VARNER,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendant Wal-Mart Stores East, L.P., through the undersigned counsel and within the time prescribed by law, without waiving any defenses, to file this Notice of Removal, respectfully showing this Honorable Court, as follows:

1.

On July 12, 2023, Plaintiff Melissa Snelgrove filed a Complaint for Damages against Defendant Wal-Mart Stores East, L.P. and Defendant Randy Varner in the State Court of Cobb County, State of Georgia (located in the Northern District of this Court) under Civil Action File Number 23-A-2998, and styled, *Melissa Snelgrove v. Wal-Mart Stores East, L.P. and Randy Varner*. True

and correct copies of all pleadings filed in the State Court case and served upon Defendant in that matter are attached hereto as Exhibit A.

2.

Defendant Wal-Mart Stores East, L.P. was served with Plaintiff's Complaint on July 13, 2023. *See* Exhibit A.

3.

To date, Defendant Randy Varner, has not been served. *See* Exhibit A.

4.

Plaintiff is a citizen of the State of Georgia. *See* Complaint at ¶ 1, attached hereto as Exhibit B.

5.

Defendant Walmart Stores East, LP is a Delaware limited partnership, of which WSE Management, LLC is the sole general partner and WSE Investment, LLC is the sole limited partner. Both WSE Management, LLC and WSE Investment, LLC are Delaware limited liability companies with principal places of business in Arkansas. The sole member of both WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC. Wal-Mart Stores East, LLC is an Arkansas limited liability company with its principal place of business in Arkansas. The sole member of Wal-Mart Stores East, LLC is Walmart

Inc. Walmart Inc. is a Delaware corporation with its principal place of business in Bentonville, Arkansas. As such, Defendant and none of its partners are or were citizens of the State of Georgia at the time of, or immediately prior to, the filing and service of this lawsuit, or at any time thereafter. *See* Georgia Secretary of State and Delaware Secretary of State documents, attached hereto as Exhibit C.

6.

Plaintiff's Complaint asserts claims against defendant Randy Varner. *See* Exhibit B. While Plaintiff's Complaint alleges that defendant Randy Varner is a citizen of the State of Georgia, to date, defendant Randy Varner has not been served. Pursuant to 28 U.S.C. § 1441 (b)(2), "A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) . . . may not be removed if any of the parties in interest *properly joined and served* as defendants is a citizen of the State in which such action is brought." 28 U.S.C. § 1441 (b)(2)(emphasis added). Therefore, the alleged citizenship of the Defendant Randy Varner, a party who has not been properly served, is to be disregarded for purposes of determining federal jurisdiction under 28 U.S.C. §1441(a).

7.

Pursuant to the foregoing, complete diversity of citizenship exists between Plaintiff, a citizen of the State of Georgia, and Defendant Wal-Mart Stores East, L.P., a Delaware corporation, and defendant Randy Varner, a defendant who has not been served in this matter.

8.

In her Complaint, Plaintiff claims to have suffered personal injuries as a result of a slip-and-fall incident at a Cobb County, Georgia store on September 18, 2021. The Plaintiff alleges medical specials in the amount of **\$110,000**. *See* Exhibit B.

9.

The amount in controversy in the subject suit exceeds the jurisdictional threshold of \$75,000. *See* Dart Cherokee Basin Operating Co. v. Owens, 574 U.S. 81, 81-82, 135 S. Ct. 547, 553, 554 (2014) (pursuant to 28 U.S.C. §1446(a), a defendant's Notice of Removal "need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.")

10.

Defendant Wal-Mart Stores East, L.P. timely removed this case pursuant to 28 U.S.C. §1446(b)(1) which provides that the “notice of removal of a civil action or proceeding shall be filed within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based” This Notice of Removal is filed within thirty days of the service of Plaintiff’s Complaint upon Defendant Wal-Mart Stores East, L.P. on July 12, 2023. *See* Exhibit A.

11.

This action is removable pursuant to 28 U.S.C. §§1332(a) and 1441 based on complete diversity of citizenship between Plaintiff and Defendant.

12.

This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§1332(a) and 1441 because, as demonstrated in the foregoing, complete diversity exists between the only proper parties to this suit and Defendant Wal-Mart Stores East, L.P. has shown by a preponderance of the evidence that it is plausible that the amount in controversy exceeds \$75,000.00.

13.

Pursuant to the provisions of 28 U.S.C. §1446, Defendant Wal-Mart Stores East L.P. has attached (as Exhibit A) copies of all process, pleadings and Orders that were served on and/or provided to Defendant Wal-Mart Stores East, L.P., including copies of all pleadings that have been filed to date in Civil Action File Number 23-A-2998 in the State Court of Cobb County, Georgia for the above-styled case.

14.

Pursuant to 28 U.S.C. §1446, Defendant is not required to file a removal bond.

15.

A true and correct copy of this Notice of Removal shall be filed with the Clerk of the State Court of Cobb County, as required by 28 U.S.C. §1446.

16.

Written notice of the filing of this Notice of Removal shall be given to all Parties, through their counsel of records, as required by 28 U.S.C. §1446, per the attached Certificate of Service.

WHEREFORE, Defendant Wal-Mart Stores East L.P. prays that the above-captioned lawsuit would be removed to and proceed in the United States District Court for the Northern District of Georgia, Atlanta Division; that no further proceedings would be held in the case originally filed in the State Court of Cobb County, State of Georgia; and that this Honorable Court would take cognizance of and jurisdiction over this suit as removed, pursuant to 28 U.S.C. §1332.

Respectfully submitted on this the 11th day of August, 2023.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Carolyn L. Lee
Steven R. Wilson
Georgia Bar No. 614233
Carolyn L. Lee
Georgia Bar No. 772008
Attorneys for Defendants

900 Circle 75 Parkway
Suite 1040
Atlanta, Georgia 30339
(770) 953-1710
swilson@wachp.com
cleo@wachp.com

CERTIFICATE OF COMPLIANCE

On this the 11th day of August, 2023, the undersigned hereby certifies that the foregoing pleading complies with the font and point selections approved by the Court pursuant to Local Rule 5.1B. The foregoing pleading has been prepared in 14-point Times New Roman font.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Carolyn L. Lee
Steven R. Wilson
Georgia Bar No. 614233
Carolyn L. Lee
Georgia Bar No. 772008
Attorneys for Defendants

900 Circle 75 Parkway
Suite 1040
Atlanta, Georgia 30339
(770) 953-1710
swilson@wachp.com
cleee@wachp.com

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MELISSA SNELGROVE,)	
	)	CIVIL ACTION FILE NO.:
Plaintiff,)	
)	
v.)	
	)	[Removed from
	)	The State Court of Cobb
	)	County, Civil Action File No.
	)	23-A-2998]
WAL-MART STORES EAST, L.P., and)	
RANDY VARNER,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that, on this the 11th day of August 2023, I electronically filed the foregoing *NOTICE OF REMOVAL* with the Clerk of this Court using the CM/ECF system which will automatically provide notice of such filing via electronic mail to the following attorney(s) of record:

James Seifter, Esq.
Darren W. Penn, Esq.
PENN LAW LLC
4200 Northside Parkway, NW
Building One, Suite 100
Atlanta, Georgia 30327
jim@pennlawgroup.com
darren@pennlawgroup.com
Attorney for Plaintiff

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Carolyn L. Lee
Steven R. Wilson
Georgia Bar No. 614233
Carolyn L. Lee
Georgia Bar No. 772008
Attorneys for Defendants

900 Circle 75 Parkway
Suite 1040
Atlanta, Georgia 30339
(770) 953-1710
swilson@wachp.com
clec@wachp.com